

D2 43. (Twice Amended) The method of claim ~~34~~ wherein said [transmitting occurs] one advertisement is scheduled to occur a predetermined amount of time before or after [said] a predetermined instantaneous content level [is ascertained].

REMARKS

Reconsideration and allowance of the present application are presently requested. Claims 1-18, 22-40 and 42-44 are currently pending in the application. Claims 19-21 and 41 have been canceled by previous amendments. Applicant notes with appreciation the indication that claims 35 and 36 are allowed.

On page 2 of the Office Action, claim 43 is rejected under 35 U.S.C. 112, first paragraph as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention. By the foregoing amendment, claims 34 and 43 have been amended to address the Examiner's concern. Claims 43 recites that said advertisement is scheduled to occur a predetermined amount of time before or after a predetermined instantaneous content level. Such a feature clearly encompasses exemplary embodiments which are described in the specification in such a manner that one skilled in the art can make and use them without any undue experimentation (see, for example, page 54, line 27 to page 55, line 14). Therefore, Applicant respectfully requests withdrawal of the rejection.

On page 3 of the Office Action, claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,550,575 (West et al.) in view of U.S. Patent No. 5,172,111 (Olivo, Jr.) and U.S. Patent No. 5,382,983 (Kwoh et al.). On page 9 of the Office Action, claims 16-18, 22, 27-33, 37 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over West. On page 19 of the Office Action, claims 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over West in view of U.S. Patent No. 5,524,195 (Clanton, III et al.). On page 21 of the Office Action, claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Olivo, Jr. On page 23, claims 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over West and U.S. Patent No. 5,589,945 (Abecassis). On page 22 of the Office Action, claim 42 is rejected under

35 U.S.C. § 103(a) as being unpatentable over West, Abecassis and Olivo, Jr. These patents, taken alone or in the combinations suggested by the Examiner, do not teach or suggest Applicant's independent claims 1, 7, 16, 22, 23, 27, 30, 34, 35, 37, 38 and 44.

In the most recent Office Action, the Examiner has, for the most part, reiterated the rejection of the earlier Office Actions. In the arguments that follow, Applicant respectfully submits that the prior art does not teach or suggest features of the present invention, such as the user interface of the invention, information labels having thematic elements in a frame-by-frame manner, or the ability to prevent access to part of the frames of information.

Exemplary embodiments of the present invention allow a user instantaneous access to control the information provided to television networks, home video and computers. A user can create local information labels which allow access to certain types of programming and information received by a television. Furthermore, the same user can avoid access to certain types of information provided over the same medium which he/she deems inappropriate.

A user can formulate and edit a local information label which represents the user's profile of preferences for different categories of program content in several different ways. For example, the user can create a local information label by browsing the different categories and assigning individual ratings to each. In at least one embodiment, questions are asked and a basic profile which corresponds to the answers of the questions is selected. The profile can be edited by showing the user the transmitted information label of the program and having the local information label adjusted based upon whether the user wants to watch a program. An historical database can be kept with respect to a particular user. When the user wants to use the television or computer, a menu of the favorite programs will be shown to the user. Such features are encompassed by Applicant's independent claims and are neither taught nor suggested by the prior art relied upon by the Examiner.

With respect to claims 1-15, the Office Action states that the claims are unpatentable over the West patent in view of the Olivo and Kwoh patents. The West patent is directed to a viewer discretion television program control system which is based upon suitability ratings for each program received. In West's system, data representative of a program rating is multiplexed to the program signal. This data is then compared to user input

censoring parameters contained in a user's database. From this comparison, it is determined whether the current program on the television is to be censored. The West patent also includes a feature where a fixed amount of time is allocated to each viewer. Thus, a viewer can be restricted in the amount of television to be watched. Furthermore, the system of West allows for programming for each person in a household according to suitability ratings. For example, a young child may not be allowed to watch programming that is rated PG-13, R or X.

With respect to independent claims 1 and 7, the Office Action acknowledges that the West patent does not disclose the ability to receive a program signal having a category label value which identifies a theme of a program on a frame-specific basis. At best, West discloses the ability to receive a program which has ratings for a television program as a whole, and not with respect to each frame.

Applicant respectfully submits that neither Olivo Jr. nor Kwoh, even when considered with the West patent in the manner suggested by the Examiner, overcome the deficiencies of West. Kwoh discloses parental control of television or VCR programming. Circuitry embedded in either a VCR or television is used to censor unwanted programming from viewers. The parental control circuitry includes a command controller and an input selection switch, by which programming can be either included or excluded. Kwoh discloses the ability to download G-codes for categories and subcategories of programs. However, the Kwoh patent fails to teach or suggest features of Applicant's claims 1 and 7 which recite, among other features, frame-specific categories and incorporating thematic ratings in a frame specific system.

Olivo, Jr. discloses a stored media screening device which compares a "program material signal source" with a material content signal. If the comparison determines that programming should be censored, the "offensive" programming is removed and replaced with a message or alternative programming. Both the Olivo and Kwoh patents fail to teach or suggest comparing information as recited in Applicant's claims. Kwoh and Olivo fail to teach or suggest identification of a program theme in a frame-specific manner or censoring according to a program theme on a frame-by-frame basis allowing a more detailed censoring ability.

The Office Action of February 18, 1999, states that Applicant relies upon features that are not recited in the rejected claims. To the contrary, claims 1 and 7 each recite that the transmitted category label has a second category label which identifies a program theme on a frame-specific basis. Therefore, Applicant's arguments are fully supported within the claimed subject matter. As such, claims 1 and 7 are not taught or suggested by the West, Olivo Jr. or Kwoh patents even when considered in combination.

With respect to claims 16-18, the Office Action states that West discloses all claimed subject matter except means for presenting questions to a user which are related to the category labels and means for receiving answers to the questions presented by the user. The Office Action appears to indicate that it would have been obvious to rephrase "ENTER YOUR PIN NUMBER" in the form of a question, and that the mere entering of censorship ratings can somehow be considered to teach or suggest Applicant's feature of presenting questions to a user which are related to category labels.

(2) To the contrary, the West patent does not teach or suggest presenting questions to a user which are related to category labels, receive the answers, assign a value to the category labels based upon the answers and form a local information label based upon the values assigned to each of the category labels. In exemplary embodiments of the present invention (for example, see pages 48 and 49 of the specification), a user's answer to each question allows certain values to be assigned to the category labels during formulation of a local information label. If the request for a PIN number were changed to a question in the West system as suggested by the Office Action, a user would still only input a PIN number, and this would not lead to assigning a value to the category labels based upon the answers to the questions. The input of a PIN number would only provide access to the system. As such, the West patent does not teach or suggest Applicant's invention as recited in claim 16.

The Examiner has taken the position that a PIN number also accesses a category label for the amount of censorship required for each individual. Even assuming this to be the case, there still would have been no teaching or suggestion that, based upon an answer to a question, values are assigned to the category labels as recited in Applicant's claims. For example, assuming for the sake of argument that West enables a person to input a PIN

in response to a question, a user inputs a PIN code (e.g., 1-4-5-6) to gain access to the system. This PIN has no relation to assigning the value of a category label. In West, once a person has been granted access to the system, they must actively (i.e., on their own accord, without prompt from the system) select or activate a rating system, enter exclusion codes or enter individual time allocation codes. As such, the West patent fails to disclose or suggest the features of independent claim 16.

(3) Furthermore, the Examiner asserts that it would have been inherent that the user would have been prompted to input the rating value for each category label for each member of the household. M.P.E.P. § 2112 requires the Examiner, when relying on the theory of inherency, to provide "a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990). The Examiner has failed to provide the necessary showing under M.P.E.P. § 2112 to support the inherency assertion. If a user in West inputs a PIN number, he/she is not necessarily required to alter input rating values. One could input the PIN number and then be able to view programming without altering the ratings employed for that PIN number (see column 7, lines 29-40).

(4) With respect to independent claim 22, the Examiner asserts that it would have been obvious to one of ordinary skill to store a plurality of local information labels with a plurality of user ages and activate one of the information labels based on an input age of a user, because censorship of TV programs with respect to one's age would have been expected. Although West stresses the importance of censorship based upon the age of the household member, column 5 of the West patent merely points out that there may be a different censorship level depending upon the age of the person. However, West requires only a PIN to be input by a user, and because each member of the household has an associated PIN number (see column 5, lines 5-10 of the West patent) any need for age to be input is eliminated. As such, there is no teaching or suggestion for activating one of a plurality of the local information labels based upon an input age in the West patent.

Furthermore, if the age of a user were the PIN number, a child that is 10 years of age could input the age of 20 as a PIN number, and possibly see information content that

would be inappropriate for that child. As such, the presumption by the Examiner that the age of a user could be used as a PIN number runs contrary to the teachings of West since West does stress censorship of programming according to a user's age. As such, the features of claim 22 patentable.

(5) Claims 23-26 are rejected as being unpatentable over West in view of Clanton. Applicant submits that even in combination, the West and Clanton patents do not teach or suggest Applicant's claimed subject matter. Applicant's specification page 50 discloses advantages of having a viewing history of particular users. West does not disclose, among other features, means for storing at least one category label value for programs presented to a user to compile a viewing history for the user. At best, West discloses storing a category label in order to discriminate what the user is able to watch based upon the input ratings of the user's profile. There is no compilation of a viewing history by West. Thus, West fails to teach or suggest Applicant's compiled user history.

(6) Clanton fails to overcome the deficiencies of the West patent. Clanton discloses a graphical user interface for an interactive television. A video-on-demand graphic interface is described for selecting a rental movie to view. Included is a listing of the Top Ten video rentals of the week and a Critics Corner location along with a list of movies to be purchased. Applicant submits that Clanton fails to teach or suggest a user history. Clanton may show a weekly history of the top ten rentals but there is no teaching or suggestion of compiling a viewing history for a particular user, as recited in Applicant's claims. Furthermore, a category label value is not stored to compile this history. Clanton's viewing history is based upon the number of videos seen by paying customers in a time period. As such, there is no disclosure or suggestion in either West or Clanton to utilize a category label value for programs presented to a user in order to compile a history where the value identifies a content of the program signal. Applicant therefore submits that claims 23-26 are allowable.

(7) In the Office Action of February 18, 1999, the Examiner indicated that the Applicant has relied upon a feature that is not recited in claims 22-26. To the contrary, claim 23 recites "means for storing the at least one category label value for programs presented to the user to compile a viewing history for the user." While this feature is not

recited in independent claim 22, Applicant has not relied upon such language for the patentability of the claim. Applicant respectfully requests withdrawal and allowance of claims 22-26 for the reasons described above.

(8) With respect to independent claims 27 and 30, the Examiner asserts that West discloses no modification of information labels but asserts that it would have been obvious that if the user felt that the programming was unacceptable, the user could alter the category label. This implies that, utilizing the teaching of West, if the user does not want to watch the program, he/she must access and then manually change the category label to inhibit future access to the program. Applicant submits that this is improper reasoning. In exemplary embodiments of the invention, if a user deems a program either acceptable or unacceptable, he/she can indicate so and the system will modify the value associated with the local category label based on the received indication from the user that the content of the program is at least one of unacceptable and acceptable. This saves the user the time and aggravation of having to manually reprogram the category labels. Because the West patent discloses manually changing the information in the label, as opposed to the system performing the modification as recited in independent claims 27 and 30, West actually teaches away from the previously claimed invention.

(5) With respect to independent claim 34, Olivo, Jr. does not determine timing transmission of a specific advertisement to occur within a predetermined period of time relative to an instantaneous content level of the program as is encompassed by claim 34. Olivo, Jr. discloses using alternate programming to **replace** an undesired portion of a program, as opposed to scheduling the timing of a particular advertisement relative to preselected information content of the program without replacing the preselected information content. Olivo, Jr. therefore discloses a stored media screening device which compares a program material signal source with a material content signal. The result of this comparison is continuously occurring throughout a program. If the comparison determines that programming should be censored, the "offensive" programming is removed and replaced with a message or alternative programming. Olivo Jr. does not disclose or suggest scheduling an advertisement at a time based upon the instantaneous content of the program. Furthermore, Olivo, Jr. does not teach or suggest features of claims which

(117) depend from claim 34. For example, newly added claim 43 provides that an advertisement is scheduled to occur at a predetermined amount of time before or after a specific instantaneous content level. This allow's for advertisers to place their advertisements based upon content of the program. Thus, an advertiser can, for example, choose that an advertisement will not be shown near what is deemed to be offensive material. As discussed above, Olivo does not disclose this ability. As such, Applicant submits claims 34 and 43 are allowable.

(117) Applicant submits that features recited in independent claim 37 are not disclosed or suggested by the West patent. While West is directed to a viewer discretion system, there is no disclosure of modification of the local information label based upon the transmitted information label. As discussed previously, in West, a user or authority figure can change the manner in which viewing is controlled via the input of exclusion codes. However, Applicant respectfully submits that there is no suggestion, absent improper hindsight reasoning, that a local information label is modified based on the transmittal information label. As such, the West patent fails to disclose or suggest the features of independent claim 37.

(117) Independent claim 38, is not disclosed or suggested by the combination of West, Abecassis or Olivo. As discussed above, West is directed to a viewer discretion television program control system and Olivo describes a media screening device which can remove "offensive" material from a signal in a frame-by-frame manner. The Abecassis patent illustrates a computer themed playing system wherein the selective transmission of a variable content program material is provided as a seamless continuous video program. Within Abecassis, each scene or fragment of a scene is given a variable descriptor. In addition, a view can define personalized video content preferences so that scenes or portions of scenes that the viewer does not want to see, are removed. In contrast, Applicant's claim 38 recites blocking a part of the frame which does not compare favorably with the information content label. Abecassis discloses blocking a scene or a part of a scene but does not disclose blocking an objectionable area of a frame. Additionally, Olivo discloses blocking an entire frame of information based upon information content. West

does not disclose or suggest the ability to block part of a frame while permitting another part of the frame to be seen. As such, claim 38 is allowable.

Thus, Applicant's independent claims 1, 7, 16, 22, 23, 27, 30, 34, 35, 37, 38 and 44 are allowable. The remaining claims which depend therefrom, and which recite additional advantageous features of the presently claimed invention, are also allowable.

All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance and such allowance is respectfully solicited.

Respectfully submitted,

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